

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

TYRONE MICHAEL BRINKLEY,)
)
)
Petitioner,)
)
)
v.) **1:07CV958**
)
)
THEODIS BECK, Secretary,)
North Carolina Department of)
Correction,)
)
)
Respondent.)

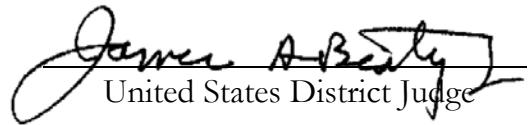
O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 18, 2008, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Respondent's motion to dismiss [Docket No. 7] be **GRANTED**, that Petitioner's petition for writ of habeas corpus [Docket No. 3] be **DENIED**, and that this action be dismissed with prejudice. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for

appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.



James A. Beatty
United States District Judge

Date: July 24, 2008